

JOINT RULES RECODIFICATION COMPARISON TABLE - Ethics

Prepared by the Office of Legislative Research and General Counsel

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
Title 6. Legislative Ethics and Adjudication of Ethics Complaints			
Chapter 1. Ethics Requirements Governing Legislators			
Part 1. Ethical Standards for Legislators			
JR6-1-101. Legislative Ethics.	JR-16.01. Legislative Ethics.	None	The Legislature in Utah consists of people who work part-time and must necessarily earn their living in other jobs and professions. It is necessary to reconcile the functions of privately employed legislators who have their own private interests with the maintenance of high ethical standards and public confidence. In seeking to

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<p><u>their own private interests with the maintenance of high ethical standards and public confidence.</u></p> <p><u>(3) In seeking to balance these interests, it is necessary to avoid controls that might be so strict that they discourage capable and honorable persons from entering legislative service.</u></p> <p><u>(4) It is recognized that public confidence in the Legislature should be promoted and that competent members should serve in the Legislature even though most of them have private interests of various types.</u></p> <p><u>(5) It is also recognized that a citizen legislator is in a different position in doing business with the state and its political subdivisions than a public servant whose chief source of livelihood is derived from public funds.</u></p>	<p>balance these interests, it is necessary to avoid controls which might be so strict that they discourage capable and honorable persons from entering service. It is recognized that public confidence in the Legislature should be promoted and that competent members should serve in the Legislature even though most of them have private interests of various types. It is also recognized that a citizen legislator is in a different position in doing business with the state and its political subdivisions than a public servant whose chief source of livelihood is derived from public funds.</p>		

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<u>livelihood is derived from public funds.</u>	<p>JR6-1-102. Code of Official Conduct (JR-16.03)</p> <p>(1) <u>Each legislator shall comply with the guidelines established in Subsection (2).</u></p> <p>(2) <u>In judging members of its house charged with an ethical violation, the Senate and House Ethics Committees shall consider whether or not the member has violated any of the following guidelines:</u></p> <p>(a) <u>Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.</u></p> <p>(b) <u>Members of the Senate and House may not be paid by a person, as defined in Joint Rule 16.06, to lobby, consult, or to further the interests of any legislation or legislative matter.</u></p> <p>(2) <u>Members of the Senate and House shall not exercise any undue influence on any governmental entity.</u></p> <p>(3) <u>Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.</u></p> <p>(4) <u>Members of the Senate and to further the interests of any</u></p>	<p>JR-16.03. Code of Official Conduct.</p> <p>In judging its members, the Senate and House Ethics Committees have the following guidelines:</p> <p>(1) (a) Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.</p> <p>(b) Members of the Senate and House may not be paid by a person, as defined in Joint Rule 16.06, to lobby, consult, or to further the interests of any legislation or legislative matter.</p> <p>(2) Members of the Senate and House shall not exercise any undue influence on any governmental entity.</p> <p>(3) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.</p> <p>(4) Members of the Senate and</p>	<p>Language in new Subsection (1) is modified slightly for clarity.</p>

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<u>legislation or legislative matter.</u> <u>(c) Members of the Senate and House shall not exercise any undue influence on any governmental entity.</u> <u>(d) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.</u> <u>(e) Members of the Senate and House may engage in business or professional activity in competition with others, but shall not use any information obtained by reason of their official position to gain advantage over any competition for activities with the state and its political subdivisions.</u> <u>(f) Members of the Senate and House shall not engage in any business</u>	<p>House may engage in business or professional activity in competition with others, but shall not use any information obtained by reason of their official position to gain advantage over any competition for activities with the state and its political subdivisions.</p> <p>(5) Members of the Senate and House shall not engage in any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.</p> <p>(6) Members of the Senate and House shall not use their official position to secure privileges for themselves or others.</p> <p>(7) While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR-16.05.</p> <p>(8) Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not</p>		

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<p><u>relationship or activity that would require the disclosure of confidential information obtained because of their official position.</u></p> <p>(g) <u>Members of the Senate and House shall not use their official position to secure privileges for themselves or others.</u></p> <p>(h) <u>While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR6-1-201.</u></p> <p>(i) <u>Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not influence them in the discharge of official duties.</u></p> <p>(j) <u>Except as provided in Subsection (3), members of the Senate and the House may</u></p>	<p>influence them in the discharge of official duties.</p> <p>(9) Except as provided in Subsection (10), members of the Senate and the House may engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities. Legislators may enter into transactions with the state by contract by following the procedures and requirements of Title 63, Chapter 56, Utah Procurement Code.</p> <p>(10) (a) As also required by Section 36-19-1, a legislator, member of the legislator's household, or client may not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator, unless the contract is let in compliance with state</p>		

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<u>engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities.</u> <u>(k) Legislators may enter into transactions with the state by contract by following the procedures and requirements of Title 63, Chapter 56, Utah Procurement Code.</u> <u>(3)(a) As also required by Section 36-19-1, a legislator, member of the legislator's household, or client may not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator, unless the contract is let in</u>	procurement policies and is open to the general public. (b) Besides the penalties authorized by these rules, Section 36-19-1 also provides that any person violating this section is guilty of a class B misdemeanor.		

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<p><u>compliance with state procurement policies and is open to the general public.</u></p> <p><u>(b) Besides the penalties authorized by these rules, Section 36-19-1 also provides that any person violating this section is guilty of a class B misdemeanor.</u></p>			
<p>Part 2. Conflicts of interest</p> <p>JR 6-1-201. Declaring and Recording Conflicts of Interest (JR-16-05)</p> <p><u>(1) As used in this section:</u></p> <p><u>(a) "Business in which the legislator is associated" means any business in which a legislator is a director, officer, owner, member, partner, employee, or is a holder of stocks or bonds in the company that have a fair market value of \$10,000 or more.</u></p>	<p>JR-16-05. Declaring and Recording Conflict of Interest</p> <p>(1) Before any vote on legislation or any legislative matter in which a legislator reasonably believes he may have a conflict of interest, that legislator should orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is. This declaration of conflict of interest shall be noted in the minutes of any committee meeting or in the Senate Journal or House</p>	<p>HR-26-01. Declaration of Conflict of Interest Form.</p> <p>The filing of the Declaration of Conflict of Interest form with the Chief Clerk of the House each year and whenever the legislator changes employment</p>	<p>The recodified rule vests responsibility in the Chief Clerk or Secretary to identify the declared conflict of interest in the House or Senate Journal and requires them to direct committee secretaries to record the conflict of interest in the committee minutes.</p>

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<p>(b) "Conflict of interest" <u>means legislation or action by a legislator that the legislator reasonably believes may cause direct financial benefit or detriment to him, a member of the legislator's immediate household, or a business in which the legislator is associated, and that benefit or detriment is distinguishable from the effects of that action on the public or on the legislator's profession, occupation, or association generally.</u></p> <p>(2) (a) A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator, or with the Chief Clerk of the House of Representatives if the legislator is a Representative, to satisfy that legislator's disclosure of any conflicts of interest as required by Subsection (1) and Utah Code Annotated Section 76-8-109.</p>	<p>Journal.</p> <p>(2) (a) A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator or with the Chief Clerk of the House of Representatives if the legislator is a Representative to satisfy that legislator's disclosure of any conflicts of interest as required by Subsection (1) and Utah Code Annotated Section 76-8-109.</p> <p>(b) This Declaration of Conflict of Interest form shall include the general legislative areas in which the legislator may have a conflict of interest.</p> <p>(2) (a) A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator, or with the Chief Clerk of the House of Representatives if the legislator is a Representative, to satisfy that legislator's disclosure of</p>	<p>satisfies the requirement of disclosing a legislator's conflict of interest.</p> <p>HR-26.02. Verbal Disclosure of Conflict of Interest in House Floor Debate.</p> <p>(1) (a) Before speaking on the floor of the House on any legislation or legislative matter in which a House member reasonably believes that he may have a conflict of interest, the House member should orally disclose to the</p>	<p>(4) As used in this section:</p>

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<u>any conflicts of interest as required by Subsection (1) and Utah Code Annotated Section 76-8-109.</u> <u>(b) This Declaration of Conflict of Interest form shall include the general legislative areas in which the legislator may have a conflict of interest.</u> <u>(c) This Declaration of Conflict of Interest form is available to the public.</u> <u>(3) (a) Before any vote on legislation or any legislative matter in which a legislator reasonably believes he may have a conflict of interest, that legislator should orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.</u> <u>(b) The Secretary of the Senate or the Chief Clerk shall:</u>	<p>(a) "Business in which the legislator is associated" means any business in which a legislator is a director, officer, owner, member, partner, employee, or is a holder of stocks or bonds in the company that have a fair market value of \$10,000 or more.</p> <p>(b) "Conflict of interest" means legislation or action by a legislator that the legislator reasonably believes may cause direct financial benefit or detriment to him, a member of the legislator's immediate household, or a business in which the legislator is associated, and that benefit or detriment is distinguishable from the effects of that action on the public or on the legislator's profession, occupation, or association generally.</p>	<p>House that he may have a conflict of interest and what that conflict is.</p> <p>(b) The declaration of the conflict of interest shall be noted in the House Journal.</p> <p>(2) Nothing in this House rule requires a House member with a conflict of interest on legislation or a legislative matter pending before the House to orally disclose that conflict of interest if the House member does not speak on the legislation or legislative matter and the conflict has</p>	

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	<p>(i) <u>direct committee secretaries to note the declaration of conflict of interest in the minutes of any committee meeting;</u> and</p> <p>(ii) <u>ensure that each declaration of conflict declared on the floor is noted in the Senate Journal or House Journal.</u></p> <p>(4) This requirement of disclosure of any conflict of interest does not prohibit a legislator from voting on any legislation or legislative matter.</p>	<p>been disclosed on the legislator's conflict of interest form.</p>	
	<p>JR 6-1-202. Disclosure of Outside Remuneration (JR-16.06)</p> <p>(1) As used in this section:</p> <p>(a) "Person" includes an individual, partnership, association, organization, company, and bodies politic and corporate or a lobbyist from any of these.</p>	<p>JR-16.06. Disclosure of Remuneration.</p> <p>(1) If any person provides remuneration to a legislator to compensate that legislator for a loss of salary or income while the Legislature is in session, that legislator shall file a written disclosure identifying:</p> <p>(a) that the legislator receives remuneration; and</p>	

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<p><u>(b) "Person" does not include a person who provides the legislator's primary source of income.</u></p> <p><u>(2) If any person provides remuneration to a legislator to compensate that legislator for a loss of salary or income while the Legislature is in session,</u></p> <p><u>that legislator shall file a written disclosure identifying:</u></p> <p><u>(a) that the legislator receives remuneration; and</u></p> <p><u>(b) the name of the person who provides the remuneration.</u></p> <p><u>(3) (a) The legislator shall file the disclosure by February 1 of each year with:</u></p> <p><u>(i) the Secretary of the Senate, if the legislator is a Senator; or</u></p> <p><u>(ii) the Chief Clerk of the House of Representatives if the legislator is a Representative.</u></p> <p><u>(b) This disclosure is</u></p>	<p>(b) the name of the person who provides the remuneration.</p> <p>(2) (a) This disclosure shall be filed by February 1 of each year with the Secretary of the Senate if the legislator is a Senator or with the Chief Clerk of the House of Representatives if the legislator is a Representative.</p> <p>(b) This disclosure is available to the public.</p> <p>(3) As used in this section:</p> <p>(a) "Person" includes an individual, partnership, association, organization, company, and bodies politic and corporate or a lobbyist from any of these.</p> <p>(b) "Person" does not include a person who provides the legislator's primary source of income.</p>		

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<u>available to the public.</u>			
Chapter 2. House and Senate Ethics Committees			
Part 1. Membership, Meetings, and Staff			
JR 6-2-101. Ethics Committees - Membership - Jurisdiction (JR-16.02)	<p>JR-16.02. Senate and House Ethics Committees.</p> <p>(1) There is established a Senate Ethics Committee and a House Ethics Committee. ***</p> <p>(2) The Joint Ethics Committee shall be bipartisan, with eight members on each committee. Members of these committees shall serve for two years in the following manner:</p> <p>(a) Senate Ethics Committee -- The chairman and three additional members shall be appointed by the President of the Senate; and</p> <p>(b) the co-chair and three additional members appointed by the Senate minority leader.</p> <p>(3) The House Ethics Committee shall be composed</p>	<p>The reference to a Joint Ethics committee was eliminated.</p> <p>Beginning in this rule, there is some ambiguity about the role played by the cochair of the committee.</p> <p>(a) Senate Ethics Committee -- The chairman and three additional members shall be appointed by the President of the Senate. The co-chairman and three additional members shall be appointed by the Senate minority leader.</p>	

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<u>of:</u> <u>(a) the chair and three additional members shall be appointed by the Speaker of the House of Representatives;</u> <u>and</u> <u>(b) the co-chair and three additional members appointed by the House minority leader.</u> <u>(4) Members of the committees shall serve two year terms.</u> <u>(5) If a complaint is filed against any member of the respective ethics committees, the President of the Senate or the Speaker of the House shall appoint another member of the Senate or House to serve in the charged member's place while the complaint is under review.</u> <u>the President of the Senate or the Speaker of the House shall appoint another member of the Senate or House to serve in the charged member's place while the complaint is under review.</u>	<p>(b) House Ethics Committee – The chairman and three additional members shall be appointed by the Speaker of the House of Representatives. The co-chairman and three additional members shall be appointed by the House minority leader.</p> <p>(3) If a complaint is filed against any member of the respective ethics committees, the President of the Senate or the Speaker of the House shall appoint another member of the Senate or House to serve in the charged member's place while the complaint is under review.</p> <p>***</p>		
JR 6-2-102. Ethics Committee – Meetings and Staff (JR-16.02)	JR-16.02. Senate and House Ethics Committees	None ***	Page 13 of 53

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<p><u>(1) The Senate and House Ethics Committees shall operate as both standing and interim committees.</u></p> <p><u>(2) The committee shall meet as necessary, either as called at the discretion of the chair or by a majority vote of the committee.</u></p> <p><u>(3) A majority of the committee is a quorum.</u></p> <p><u>(4) The staff of the committee consists of:</u></p> <p><u>(a) the director of the Office of Legislative Research and General Counsel;</u></p> <p><u>(b) the Legislative General Counsel; and</u></p> <p><u>(c) any other members of the staff of that office designated by the director.</u></p>	<p>(4) (a) The Senate and House Ethics Committees shall operate as both standing and interim committees. These committees shall meet as necessary, either as called at the discretion of the chairman or by a majority vote of the committee. A majority of the committee constitutes a quorum.</p> <p>(b) The staff of the committee consists of the Director and Legislative General Counsel of the Office of Legislative Research and General Counsel and any other members of the staff of that office designated by the director.</p>		
<p>Part 2. Jurisdiction and Powers</p> <p>JR 6-2-201. Ethics</p>		<p>JR-16.02. Senate and House Ethics</p>	<p>None</p>

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<u>Committee – Jurisdiction</u> (JR-16.02) (1) The Senate Ethics Committee shall review and adjudicate any charges brought against a member of the Senate or House for acts that violate: (a) the Code of Official Conduct; or (b) any law, rule, regulation, or other standard of conduct applicable to the conduct of a member of the Senate or House in the performance of legislative responsibilities, if the conduct would reflect discredit upon the Senate or House as a whole.	Committees. (1) These committees are to deal with any charges brought against a member of the Senate or House for acts which are in violation of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of a member of the Senate or House in the performance of legislative responsibilities, if the conduct would reflect discredit upon the Senate or House as a whole.		The committee may want to consider authorizing the committee chair to direct staff to issue
JR 6-2-202. Powers – Subpoena – Contempt (JR-16.04) (1) In hearing and processing all complaints, the rules	JR-16.04. Rules of Procedure for the Senate and House Ethics Committees. In hearing and processing all complaints, these rules govern the	None	Page 15 of 53

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<p><u>established by this Title 6 govern the procedures to be followed by the Senate and House Ethics Committees.</u></p> <p><u>(2)(a) For all proceedings authorized by this title, the chair and the Director of the Office of Legislative Research and General Counsel may require, by subpoena or otherwise, the attendance and the testimony of witnesses and the production of any materials the committee considers necessary to the inquiry.</u></p> <p><u>(i) issue subpoenas to require the attendance of witnesses; and</u></p> <p><u>(ii) issue subpoenas duces tecum to direct the production of documents.</u></p>	<p>procedures to be followed by the Senate and House Ethics Committees:</p> <p>***</p> <p>(c) The chairman and the Director of the Office of Legislative Research and General Counsel may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of any materials the committee considers necessary to the inquiry.</p> <p>***</p> <p>(xi) Subpoena Power. At the direction of a majority of the committee, the committee chairman may direct staff to issue subpoenas to direct the attendance of witnesses and to issue subpoena duces tecum to direct the production of documents.</p> <p>***</p> <p>(D) The witness's disobedience to the chairman's direction to answer a question constitutes contempt. The chairman's direction may only be overruled by a vote of the majority of</p>		

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<p><u>(2) (a) (i) The witness's disobedience to the chair's direction to answer a question, to a subpoena to appear, or to a subpoena duces tecum, or to produce documentary or other written evidence constitutes contempt.</u></p> <p><u>(ii) The chair's direction to answer a question may only be overruled by a vote of the majority of the committee members present.</u></p> <p><u>(iii) Because the object of the Fifth Amendment privilege not to incriminate oneself is so that no criminal action will be prosecuted, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.</u></p> <p><u>(b) A majority of the members of the committee may compel</u></p>	<p>the committee members present.</p> <p>The object of the Fifth Amendment privilege not to incriminate oneself is so no criminal action will be prosecuted. If a witness cannot be prosecuted for the crime to which his testimony relates, it is improper for the witness to invoke the privilege.</p> <p>(E) The committee chairman shall direct each witness to furnish any relevant book, paper, affidavit, or other written evidence for the committee's consideration, which material the witness has chosen to bring or the production of which has been required by subpoena duces tecum. Unless overruled by a majority vote of the committee members present, disobedience to the chairman's direction to produce such documents in response to a subpoena duces tecum constitutes a contempt.</p> <p style="text-align: right;">***</p> <p>(ix) Contempt. A majority of the members of the committee may</p>		

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<u>obedience to the requirements of the committee by directing staff to file a contempt proceeding in state district court against any person who:</u> <u>(A) fails to comply with a subpoena or a subpoena duces tecum;</u> <u>(B) refuses to answer a question relevant to the investigation that does not infringe on the person's constitutional rights; or</u> <u>(C) is guilty of contempt on any other grounds specified in statute or recognized at common law.</u>	<p>compel obedience to the requirements of the committee by way of contempt proceedings begun by application to a state district court as to any person who:</p> <p>(A) fails to comply with a subpoena or a subpoena duces tecum;</p> <p>(B) refuses to answer a question relevant to the investigation which does not infringe on his constitutional rights; or</p> <p>(C) is guilty of contempt on any other grounds specified in statute or recognized at common law.</p>		<p>***</p>
Chapter 3. Filing Complaints Alleging a Violation of Legislative Ethics	JR 6-3-101. Complaints – Filing – Form (JR-16.04(2)) <u>(1) (a) Any legislator who wishes to file an ethics</u>	JR-16.04. Rules of Procedure for the Senate and House Ethics Committees. <p>***</p>	None

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<p><u>complaint against another legislator shall file a written complaint:</u></p> <p><u>(i) with the President of the Senate and the chair of the Senate Ethics Committee, if the complaint is against a senator; or</u></p> <p><u>(ii) with the Speaker of the House and the chair of the House Ethics Committee, if the complaint is against a representative.</u></p> <p><u>(2) (a) The legislator filing the complaint shall ensure that it contains the following information:</u></p> <p><u>(i) the name and position or title of the person alleged to be in violation, who is the respondent;</u></p> <p><u>(ii) the name and address of at least three Senators, if the respondent is a Senator, or at least</u></p>	<p>(2) (a) All complaints submitted to the committees shall be in writing. Each complaint shall contain the following information:</p> <ul style="list-style-type: none"> (i) the name and address of the three Senators, if the respondent is a Senate member, or three Representatives, if the respondent is a House member, who are filing the complaint, who are the complainants; (ii) the name and position or title of the person alleged to be in violation, who is the respondent; (iii) the nature of the alleged violation; (iv) any facts alleged to support the complaint, and when facts are based upon the information and belief of the complainants, the complaint shall state that and give the basis for the information and belief; and (v) all documents which support the complaint as an attachment to it. <p>(b) All complaints shall be filed</p>		

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<p><u>three Representatives, if the respondent is a House member, who are filing the complaint, who are the complainants;</u></p> <p><u>(iii) the nature of the alleged violation;</u></p> <p><u>(iv) subject to Subsection (1)(b), any facts alleged to support the complaint; and</u></p> <p><u>(v) all documents that support the complaint as an attachment to it.</u></p> <p><u>(b) If any of the facts supporting the complaint are based upon the information and belief of the complainants, the complaint shall state that the facts are presented "upon information and belief" and give the basis for that information and belief.</u></p>	<p>directly with the President of the Senate, if the respondent is a Senator, the Speaker of the House of Representatives, if the respondent is a Representative, and with the appropriate ethics committee chairman.</p> <p>***</p>		
<p>Chapter 4. Ethics Committee Procedures for Evaluating</p>			Page 20 of 53

Recodified/Revised Rule and Adjudicating Complaints.	Existing Rule Part 1. Notice and Review of Complaint for Sufficiency and Jurisdiction	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
	<p>JR6-4-101. Review of Complaint for Compliance with Form Requirements (JR- 16.04(3)(a)) and Notice of Complaint To Committee Members (JR-16.04 (3)(a))</p> <p>(1) <u>(a) Within five days after receipt of the complaint, the staff of the committee, in consultation with chair and co chair, shall examine each complaint to determine if it is in compliance with JR6-3-101.</u></p> <p><u>(b) (i) If the chair and cochair determine that the complaint does not comply with JR6-3- 101, the chair shall return the complaint to the complainants with a copy of the legislative</u></p>	<p>JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>***</p> <p>(3) (a) Within five days after receipt of the complaint, the staff of the committees shall examine each complaint to determine if it is in compliance with Subsection (2). If the complaint is not in compliance, it shall be returned to the complainants with a copy of the legislative rules on ethics. The complainants may resubmit the complaint. If the complaint is in compliance with the rules, it shall be filed with the chairman and the co-chairman of the committee. Every member of the committee shall be notified of the filing of the</p>	<p>The new rule adds a requirement that staff consult with the chair and cochair about whether the complaint complies with the rules. It also directs the chair to send a copy of the complaint to each committee member rather than simply making it available for inspection.</p>

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<p><u>rules on ethics.</u></p> <p>(ii) <u>The complainants may resubmit the complaint.</u></p> <p>(c) <u>If the chair and cochair determine that the complaint complies with this title, the chair shall:</u></p> <p>(1) <u>accept the complaint;</u></p> <p>(ii) <u>notify each member of the ethics committee that the complaint has been filed; and</u></p> <p>(iii) <u>provide each member of the ethics committee with a copy of the complaint.</u></p> <p>(2) <u>No committee member or staff may disclose publicly any information received by the committee concerning any alleged violation until the member of the Senate or House charged in the violation has received the Summary of the Preliminary Inquiry required by JR6-4-206.</u></p>	<p>complaint and its availability for inspection.</p> <p>JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>(1) (a) No information received by the committees concerning any alleged violation shall be disclosed to the public until the member of the Senate or House charged in the violation has received a Summary of the Preliminary Inquiry provided for under Subsection (4).</p>		
<p>JR 64-102. First Ethics</p>	<p>JR-16.04. Rules of Procedure for</p>	<p>None</p>	<p>The new rule</p>

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<p><u>Committee Meeting – Jurisdictional and Claim review. (JR-16.04(3)(b), (4))</u></p> <p>(1) Within 30 days after the complaint is accepted, the chair and cochair shall:</p> <p>(a) schedule an ethics committee meeting; and</p> <p>(b) place the ethics complaint on the agenda for consideration at that meeting with the recommendation that:</p> <p>(i) the complaint be considered; or</p> <p>(ii) that the complaint be dismissed because it fails to allege facts which constitute a violation.</p> <p>(4) (a) At the next meeting of the committee, the committee shall determine whether the alleged violation in the complaint is within the jurisdiction of the committee and whether the complaint merits further inquiry. The complainants and respondent shall be notified, in writing, of the action taken by the committee.</p> <p>(b) If the committee determines that further investigation into the</p>	<p>the Senate and House Ethics Committees.</p> <p>***</p> <p>(3)(b) Within 30 days after the complaint is filed, the chairman and co-chairman shall place the complaint on the agenda for consideration at the next committee meeting with the recommendation:</p> <p>(i) that the complaint be considered; or</p> <p>(ii) that the complaint be dismissed because it fails to allege facts which constitute a violation.</p> <p>(4) (a) At the next meeting of the committee, the committee shall determine whether the alleged violation in the complaint is within the jurisdiction of the committee and whether the complaint merits further inquiry. The complainants and respondent shall be notified, in writing, of the action taken by the committee.</p> <p>(b) If the committee determines that further investigation into the</p>		

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<p><u>(ii) whether or not the complaint merits further inquiry.</u></p> <p><u>(b) The chair shall notify the complainants and respondent, in writing, of the determination made by the committee.</u></p> <p><u>(3) If the committee determines that the complaint merits further inquiry, the committee meeting shall become a preliminary inquiry to determine whether the alleged violation occurred.</u></p>	<p>matter is merited, the committee meeting shall become a preliminary inquiry to determine whether the violation occurred.</p> <p>***</p>		
<p>Part 2. Preliminary inquiry.</p> <p>(JR-16.04)</p> <p>JR 64-201. General Rules Governing Preliminary Inquiries</p> <p><u>(1) The scope of the preliminary inquiry is limited to the alleged violations stated in the complaint.</u></p> <p><u>(2) (a) Only relevant or material</u></p>	<p>JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>None</p> <p>***</p> <p>(4) (e) In the preliminary inquiry, the following rules apply:</p> <p>(i) Scope of Preliminary Inquiry.</p> <p>The scope of the preliminary inquiry is</p>		

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<p><u>evidence is admissible in the preliminary inquiry.</u></p> <p>(b) <u>The chair's determination of relevance and admissibility is final and may only be overruled by a majority vote of the committee.</u></p> <p>(3) <u>At the beginning of the preliminary inquiry, in order to expedite the committee's investigation and to facilitate a rapid resolution of the matter, the committee cochairs and the respondent may agree in writing that the procedural requirements of Part 3, Disciplinary Hearings, are waived.</u></p> <p>(4) (a) <u>The preliminary inquiry is closed to the public.</u></p> <p>(b) <u>The respondent and the respondent's counsel may be present during the presentation of testimony and evidence to the committee.</u></p>	<p>limited to the alleged violations stated in the complaint.</p> <p>(iii) Evidence. Only relevant or material evidence is admissible in the hearing. The chairman's determination of admissibility is final and may only be overruled by a majority vote of the committee.</p> <p>(d) At the beginning of the preliminary inquiry, in order to expedite the committee's investigation and to facilitate a proper resolution of the matter, the committee cochairs and the respondent may agree in writing that the procedural requirements of JR-16.07 are waived.</p> <p>(b) No meetings of the committees shall be open to the public except a disciplinary hearing under JR-16.07.</p> <p>(4) (b) This preliminary inquiry is not open to</p>		

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<p><u>(c) Only Ethics Committee members and staff may be present during other portions of the preliminary inquiry.</u></p> <p><u>(5) Except for the official record, no camera or recording device may be brought in or used in the preliminary inquiry.</u></p> <p><u>(6) Upon consent of a majority of its members, the committee may permit any person, not compelled or invited, to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record.</u></p> <p><u>(7) (a) The release of any testimony or other evidence presented at a closed hearing and the form and manner of that release shall be by a majority vote of all members of the committee.</u></p> <p><u>(b) Committee members and</u></p>	<p>the public.</p> <p> ***</p> <p>(ii) Attendance of Respondent or Others.</p> <p>(A) During the testimony and evidentiary stage of the preliminary inquiry, the respondent and his counsel may be present.</p> <p>(B) Only (Senate, House, or Joint) Ethics Committee members and its staff shall be present during the other portions of the preliminary inquiry.</p> <p> ***</p> <p>(iv) Record.</p> <p>Except for the official record, no camera or recording device may be brought in or used in the preliminary inquiry.</p> <p> ***</p>	<p>(A) During the testimony and evidentiary stage of the preliminary inquiry, the respondent and his counsel may be present.</p> <p>(B) Only (Senate, House, or Joint) Ethics Committee members and its staff shall be present during the other portions of the preliminary inquiry.</p> <p> ***</p> <p>(b) Upon consent of a majority of its members, the (Senate, House, or Joint) Ethics Committee may permit any person, not compelled or invited, to appear and testify at a hearing or</p>	

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<p><u>committee staff may not publicly disclose any other part of the preliminary inquiry.</u></p> <p><u>(8) If a majority of the committee determines that further evidence and testimony are necessary, the committee shall:</u></p> <p><u>(a) adjourn and continue the preliminary inquiry hearing to a future date; and</u></p> <p><u>(b) establish that future date by majority vote.</u></p>	<p>submit a sworn written statement of facts or other documentary evidence for incorporation into the record.</p> <p>***</p> <p>(xii) Release of Testimony.</p> <p>The release of any testimony or other evidence presented at a closed hearing and the form and manner of such release shall be by a majority vote of all members of the committee. Committee members and its staff shall not publicly disclose any other part of the preliminary inquiry.</p>	<p>(xiii) Continuance of Preliminary Inquiry. If a majority of the committee determines that further evidence and testimony are necessary, they may adjourn and continue the preliminary inquiry hearing to a future date, which date shall be established by a majority of the committee.</p> <p>***</p>	<p>None</p>
<p>JR 64-202. Chair as Presiding Judge.</p>	<p>(v) Committee Chairman.</p>	<p>***</p>	<p>Page 27 of 53</p>

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<p><u>(1) The committee chair is vested with the power to direct the committee in the preliminary inquiry.</u></p> <p><u>(2) (a) If a committee member objects to a decision of the chair, that member may appeal the decision to the committee by stating: "I appeal the decision of the chair."</u></p> <p><u>(b) This motion is non-debatable.</u></p> <p><u>(c) The chair shall direct a roll call vote to determine if the committee membership supports the decision of the chair.</u></p> <p><u>(d) A majority vote of the committee is necessary to overrule the decision of the chair.</u></p> <p><u>(3) The chair may set time limitations on any part of the preliminary inquiry.</u></p>	<p>(A) The committee chairman is vested with the power to direct the committee in the preliminary inquiry.</p> <p>(B) If a committee member objects to a decision of the chair, that member may appeal the decision to the committee by stating: "I appeal the decision of the chair." This motion is nondebatable. The chairman shall direct a roll call vote to determine if the committee membership supports the decision of the chair. A majority vote of the committee is necessary to overrule the decision of the chairman.</p> <p>(C) The chairman may set time limitations on any part of the preliminary inquiry.</p>		The committee may
JR 64-203. Testimony and	JR-16.04. Rules of Procedure for	None	Page 28 of 53

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<u>Examination of Witnesses – Oath --Contempt</u>	<u>the Senate and House Ethics Committees.</u>	<u>(1) At the direction of the committee chair and cochair, the committee may hear the testimony of the complainants, the respondent, and witnesses.</u>	<u>wish to consider requiring that each witness testify under oath rather than leaving that decision to the discretion of the ethics committee.</u>
<u>(2) Unless otherwise directed by the committee, each witness shall testify under oath.</u>	<u>(b) Legislative General Counsel shall administer the oath to each witness.</u>	<u>(3) The chair shall permit the witness to make a brief opening statement if the witness desires.</u>	<u>The rule makes explicit that the chair may direct a witness to answer a question. That right is only implied in existing rule.</u>
<u>(4) The committee chair shall direct the examination of the witness as follows:</u>	<u>(a) After the witness's presentation, the chair shall:</u>	<u>(i) give committee members the opportunity to question the</u>	<u>The committee may not wish to restrict the committee's ability to obtain evidence to "written evidence."</u>
<u>(E) The committee chairman shall</u>			

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<p><u>witness; and</u></p> <p><u>(ii) give the respondent the opportunity to question the witness.</u></p> <p><u>(b) The committee chair may allow further examination of the witness by the committee, committee staff, or the respondent.</u></p> <p><u>(5) (a) If the witness objects to a question, the chair may direct the witness to answer.</u></p> <p><u>(b) If the witness still declines to answer the question, the witness may be held in contempt as provided in JR6-2-202</u></p> <p><u>(6) (a) The committee chair shall direct each witness to furnish any relevant book, paper, affidavit, or other written evidence for the committee's consideration if the witness has brought the material voluntarily or has been required to bring it</u></p>	<p>direct each witness to furnish any relevant book, paper, affidavit, or other written evidence for the committee's consideration, which material the witness has chosen to bring or the production of which has been required by subpoena duces tecum. Unless overruled by a majority vote of the committee members present, disobedience to the chairman's direction to produce such documents in response to a subpoena duces tecum constitutes a contempt.</p> <p>(F) A witness may be allowed to insert in the record sworn written statements of reasonable length relevant to the purpose, subject matter, and scope of the investigation.</p> <p>(G) Unless otherwise directed by committee, all witnesses shall testify under oath.</p> <p>(H) Legislative General Counsel shall administer the oath to each witness.</p>	<p>***</p>	

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<p><u>by subpoena duces tecum.</u></p> <p><u>(b) If the witness declines to provide evidence in response to a subpoena duces tecum, the witness may be held in contempt as provided in JR6-2-202.</u></p> <p><u>(7) The chair may allow a witness to insert into the record a sworn written statement of reasonable length that is relevant to the purpose, subject matter, and scope of the investigation.</u></p>	<p>(D) The witness's disobedience to the chairman's direction to answer a question constitutes contempt. The chairman's direction may only be overruled by a vote of the majority of the committee members present.</p> <p style="text-align: right;">***</p> <p>(viii) Advice of Counsel.</p> <p>(A) Any witness testifying before the committee may have his counsel present.</p> <p>(B) When the committee seeks factual testimony within the personal knowledge of the witness, such testimony and answers should be given by the witness himself and not suggested to the witness by counsel. Counsel for a witness should not advise the witness during the witness's testimony, except when specifically requested by the witness.</p> <p>JR 64-204. Right to counsel - Limitations on counsel</p> <p>(1) Any witness testifying before the committee may have the witness's counsel present.</p> <p>(2) During the preliminary inquiry, counsel for a witness shall confine his activity exclusively to private advice to</p>		

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<p><u>his client about the witness's legal rights.</u></p> <p><u>(3) Counsel for a witness may not:</u></p> <p><u>(a) advise the witness during the witness's testimony, except when specifically requested by the witness;</u></p> <p><u>(b) address the committee;</u></p> <p><u>(c) ask questions of any witness, including the counsel's client; or</u></p> <p><u>(d) engage in oral arguments with the committee .</u></p> <p><u>(3) Because the committee seeks factual testimony within the personal knowledge of the witness, the witness's counsel may not suggest testimony and answers to the witness during the inquiry, but must allow the witness to present testimony and answer questions without prompting or suggestions.</u></p> <p><u>(4) If the witness's counsel fails</u></p>	<p>shall not be permitted to address the committee, ask questions of any witness, or engage in oral arguments with the committee, but must confine his activity exclusively to private conversations of legal advice to his client. Counsel's failure to abide by these rules is grounds for counsel's exclusion from the preliminary inquiry.</p>		

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<p><u>to comply with any of the requirements of this JR6-4-204, the chair may exclude the counsel from the preliminary inquiry.</u></p>			
<p>JR 6-4-205. Rights of the Respondent</p> <p>(1) The chair shall give the respondent an opportunity to respond, orally or in writing, to the allegations stated in the complaint.</p>	<p>JR-16-04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>***</p> <p>(vii) Response of Respondent. The respondent shall be given an opportunity to respond, orally or in writing, to the allegations stated in the complaint.</p>		<p>This new rule vests the chair with the responsibility for ensuring that a record is made.</p>
<p>JR 6-4-206. Record</p> <p>(1) The chair shall ensure that:</p> <p>(a) a record of the preliminary inquiry is made; and</p> <p>(b) the record includes:</p> <p>(i) rulings of the chair;</p> <p>(ii) questions of the committee and its staff;</p> <p>(iii) the testimony and responses of witnesses, sworn statements submitted to the committee, relevant</p>	<p>JR-16-04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>***</p> <p>(iv) Record. A record shall be made which includes rulings of the chair, questions of the committee and its staff, the testimony and responses of witnesses, sworn statements submitted to the committee, relevant</p>		

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<p><u>(iv) sworn statements submitted to the committee;</u></p> <p><u>(v) relevant documents; and</u></p> <p><u>(vi) any other matters that the committee or its chair directs.</u></p> <p><u>(c) After the preliminary inquiry is completed, the staff of the committee shall keep a file containing a comprehensive summary of the inquiry.</u></p>	<p>documents, and such other matters as the committee or its chairman may direct.</p> <p>***</p> <p>JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>***</p> <p>(4)(f) At the completion of the preliminary inquiry, the staff of the committee shall keep a file containing a comprehensive summary of the inquiry.</p>	<p>JR-16.04. Rules of Procedure for the Senate and House Ethics Committees.</p> <p>***</p> <p>(xv) Burden of Proof.</p> <p>(A) If, at the conclusion of the preliminary inquiry in which the procedural requirements of Part 3, <u>Disciplinary Hearings</u>, are not waived, the committee determines, by a preponderance of the evidence, that there is reason to believe the alleged violation of the</p>	<p>There is a conflict between the burden of proof between the preliminary hearing and the disciplinary hearing.</p> <p>Current rule requires that the case be made by the lower "preponderance of evidence" standard</p>

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<p><u>to believe that the alleged violation did occur, the committee shall direct staff to prepare a Summary of the Preliminary Inquiry.</u></p> <p>(2) <u>If, at the conclusion of the preliminary inquiry in which the procedural requirements of Part 3, Disciplinary Hearings, are waived, the committee determines, by a preponderance of the evidence, that there is reason to believe that the alleged violation did occur, the committee shall direct staff to prepare a Summary of the Preliminary Inquiry.</u></p> <p><u>to believe that the alleged violation did occur, the committee shall direct staff to prepare a Summary of the Preliminary Inquiry.</u></p> <p>(3) <u>(a) After the announcement of the committee's decision in the Summary of the Preliminary Inquiry.</u></p> <p><u>(b) If the procedural requirements of Part 3, Disciplinary Hearings, have</u></p>	<p>Code of Official Conduct did occur, the committee shall direct staff to prepare a Summary of the Preliminary Inquiry.</p> <p>(B) If, at the conclusion of the preliminary inquiry in which the procedural requirements of JR-16.07 are waived, the committee determines, by a preponderance of the evidence, that there is reason to believe the alleged violation of the Code of Official Conduct did occur, the committee shall direct staff to prepare a Summary of the Preliminary Inquiry.</p> <p>***</p> <p>(5) (a) After the announcement of the committee's decision in the Summary of the Preliminary Inquiry, if the procedural requirements of JR-16.07 have been waived as provided in Subsection (4)(d), the committee shall determine what recommendation should be made to the Senate or House with respect to any count which has been proved. The committee shall hear no further testimony during the</p>	<p>both when the preliminary inquiry is the dispositive final inquiry (i.e., when the respondent has waived the disciplinary hearing) and when the preliminary inquiry is simply a "preliminary inquiry" to determine whether to convene a full disciplinary hearing.</p> <p>If a disciplinary hearing is convened, the burden of proof that must be met for sanctions to attach is "clear and convincing evidence" a higher standard.</p> <p>This situation creates a disincentive for the respondent to elect</p>	

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<u>been waived, the committee shall determine what recommendation should be made to the Senate or House with respect to any count that has been proved as provided in Subsection (4).</u> <u>(b) The committee may not hear any further testimony during the preliminary inquiry, except by a majority vote of the committee.</u> <u>(4) (a) A count is not proved unless a majority of the committee so determine by vote.</u> <u>(b) A count that is not proved is dismissed.</u> <u>(c) If a majority of the committee does not vote that a count has been proved, a motion to reconsider that vote may only be made by a member of the committee who voted that the count was not proved.</u>	<p>preliminary inquiry, except by a majority vote of the committee.</p> <p>(b) A count is not proved unless a majority of the committee so determine by vote. A count which is not proved shall be dismissed. If a majority of the committee does not vote that a count has been proved, a motion to reconsider that vote may only be made by a member of the committee who voted that the count was not proved.</p> <p>(6) (a) The committee may, for any count that has been voted as proved, recommend one or more of the following actions:</p> <ul style="list-style-type: none"> (i) censure; (ii) expulsion; (iii) denial or limitation of any right, power, or privilege of the respondent, if under the Utah Constitution the Senate or House may impose such denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or 		

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<u>proved.</u> <u>(5) (a) The committee may, for any count that has been voted as proved, recommend one or more of the following actions:</u> <ul style="list-style-type: none"> <u>(i) censure;</u> <u>(ii) expulsion;</u> <u>(iii) denial or limitation of any right, power, or privilege of the respondent, if under the Utah Constitution the Senate or House may impose such denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or privilege; or</u> <u>(iv) any other action the committee determines appropriate.</u> <u>(b) If a majority of the committee does not vote in favor of the recommendation for action, a motion to reconsider may only be made by a member of the committee who voted against the recommendation.</u>	privilege; or <ul style="list-style-type: none"> (iv) any other action the committee determines appropriate. 		

Recodified/Revised Rule	Existing Rule <u>who voted against the recommendation.</u>	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
	Part 3. Disciplinary Hearing (JR-16.07)	<p>JR 64-301. Disciplinary Hearing -- General Provisions</p> <p>(1) If there is no waiver of the disciplinary hearing as provided in Subsection(4)(d), the Senate and House Ethics Committees shall follow these procedures at the conclusion of the preliminary inquiry.</p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>(1) If there is no waiver of the disciplinary hearing as provided in JR-16.04(4)(d), the Senate and House Ethics Committees shall follow these procedures at the conclusion of the preliminary inquiry.</p> <p>***</p> <p>(5) (a) Prior to any disciplinary hearing, the committee shall adopt a statement establishing the scope and purpose of the hearing. A copy of this statement shall be furnished to all witnesses. The scope and purpose may expand or contract during the hearing, depending upon evidence received. The respondent has the right to counsel during all stages of the disciplinary hearing.</p> <p>(b) The disciplinary hearing is open to</p>

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	<p><u>the hearing may expand or contract during the hearing, depending upon the evidence received.</u></p> <p>(3) The respondent has the right to counsel during all stages of the disciplinary hearing.</p> <p>(4) The disciplinary hearing is open to the public.</p>	<p>the public and consists of two phases.</p>	
	<p>JR 6-4-302. Appointment of Special Prosecutor</p> <p>(1) (a) The chair shall appoint a special prosecutor.</p> <p>(b) This special prosecutor shall be paid by the Senate if it is a Senate Ethics Committee or the House if it is a House Ethics Committee.</p> <p>(2) The special prosecutor shall:</p> <p>(a) prepare the Statement of Alleged Violation as provided in JR6-4-303; and</p> <p>(b) act as prosecutor against</p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>***</p> <p>(2) Special Prosecutor. If an ethics probe goes into a disciplinary hearing stage, the Senate or House Ethics Committee shall direct the chairman to appoint a special prosecutor. This special prosecutor shall be paid by the Senate if it is a Senate Ethics Committee or the House if it is a House Ethics Committee. The special prosecutor shall prepare the Statement of Alleged Violation from the Summary of Preliminary Inquiry. The special prosecutor is also responsible for</p>	

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<u>the respondent in the disciplinary hearing.</u>	prosecuting the respondent in the disciplinary hearing.		
JR 6-4-303. Statement of Alleged Violation <u>(1) In preparing the Statement of Alleged Violation, the special prosecutor shall, after reviewing the Summary of the Preliminary Inquiry, ensure that:</u> <u>(a) the statement is divided into separate counts; and</u> <u>(b) each count alleges a separate violation and includes the facts that support each alleged violation.</u> <u>(2) After completing the Statement of Alleged Violation, the special prosecutor shall:</u> <u>(a) review the statement with the committee chair and committee staff;</u> <u>(b) obtain approval of the statement from the committee chair; and</u>	JR-16.07. Disciplinary Hearing. *** (3) If the committee determines that there is reason to believe the alleged violation did occur, the committee shall direct the special prosecutor to transmit to the respondent and to the complainants a copy of the Statement of Alleged Violation. The statement shall be divided into counts. Each count shall allege a separate violation, and the facts which support each count.	None	The new rule adds a requirement that the special prosecutor review the statement of alleged violation with the committee chair and staff and obtain the chair's approval before sending it to the complainants and respondents.

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<p><u>(c) transmit the Statement of Alleged Violation to the respondent and to the complainants.</u></p>			<p>New rule specifies "30 calendar days" instead of simply "30 days."</p>
	<p>JR 64-304. Response to Statement of Alleged Violation</p> <p><u>(1) Within 30 calendar days after receipt of the Statement of Alleged Violation, the respondent may file a written response to the statement that is signed by the respondent or the respondent's counsel.</u></p> <p><u>(2) The respondent shall limit the response to the following:</u></p> <p><u>(a) an admission or denial of each count, under oath, with any supportive evidence or relevant information;</u></p> <p><u>(b) an objection to any or all counts on the grounds that the count fails to state facts that constitute a violation of the Code of Official Conduct or any or all counts on the grounds that the count fails to state facts that constitute a violation of the Code of Official Conduct or any</u></p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>***</p> <p>(4) (a) The respondent has 30 days from receipt of the Statement of Alleged Violation to respond. The response shall be in writing and shall be signed by the respondent or the respondent's counsel. The response shall be limited to the following:</p> <p>(i) an admission or denial of each count, under oath, with any supportive evidence or relevant information;</p> <p>(ii) an objection to any or all counts on the grounds that the count fails to state facts which constitute a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to a member of the Senate or House in the performance of legislative</p>	

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<u>law, rule, regulation, or other standard of conduct applicable to a member of the Senate or House in the performance of legislative responsibilities:</u> <u>(c) an objection to the jurisdiction of the committee considering the allegations contained in the statement;</u> <u>(d) a motion for a more detailed statement regarding the cause of action stated in the complaint; or</u> <u>(e) an objection to the participation of any member of the committee, the committee's staff, or the special prosecutor on the grounds that that person would be unable to render a fair and impartial judgment or investigation.</u> <p style="text-align: right;">(3) If the respondent fails to submit a response to the Statement of Alleged Violation or to any count contained in it,</p>	<p>responsibilities;</p> <p>(iii) an objection to the jurisdiction of the committee considering the allegations contained in the statement;</p> <p>(iv) a motion for a more detailed statement regarding the cause of action stated in the complaint; or</p> <p>(v) an objection to the participation of any member of the committee, the committee's staff, or the special prosecutor on the grounds that that person would be unable to render a fair and impartial judgment or investigation.</p> <p>The committee, by majority vote, shall judge the qualifications of the person against whom the objection is raised.</p> <p>(b) The respondent's failure to submit a response to the Statement of Alleged Violation or any count contained in it constitutes an admission of the alleged violation.</p>		

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<u>the statement or count constitutes an admission of the alleged violation.</u>			
	<p>JR 64-305. Committee Action on Statement of Alleged Violation and Response.</p> <p>(1) (a) Within 30 calendar days after receipt of the respondent's response or the respondent's failure to respond within that time, the committee shall determine, by majority vote, to:</p> <p>(i) dismiss the complaint;</p> <p>(ii) grant or deny the respondent's motion for a more detailed statement, and if this motion is granted, direct the special prosecutor to give more detail in the Statement of Alleged Violation and give the respondent 30 days from receipt of this statement to respond as provided in Subsection (4)(a);</p> <p>(iii) hold a disciplinary hearing; or</p> <p>(iv) defer action, if a judicial proceeding is pending.</p> <p>(d) If the committee is unable to</p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>***</p> <p>(c) Within 30 days after receipt of the respondent's response or the respondent's failure to respond within that time, the committee shall determine, by majority vote, to:</p> <p>(i) dismiss the complaint;</p> <p>(ii) grant or deny the respondent's motion for a more detailed statement, and if this motion is granted, direct the special prosecutor to give more detail in the Statement of Alleged Violation and give the respondent 30 days from receipt of this statement to respond as provided in Subsection (4)(a);</p> <p>(iii) hold a disciplinary hearing; or</p> <p>(iv) defer action, if a judicial proceeding is pending.</p> <p>(d) If the committee is unable to</p>	<p>New rule specifies "30 calendar days" instead of simply "30 days."</p> <p>Subsection (4) defines more precisely how the committee should resolve an objection to the participation of a committee or staff member.</p>

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<u>respond as provided in JR6-4-</u> <u>304:</u> <u>(iii) hold a disciplinary hearing; or</u> <u>(iv) defer action, if a judicial proceeding is pending.</u> <u>(b) If the committee is unable to obtain a majority vote directing further proceedings against the respondent, the statement and complaint are considered dismissed.</u> <u>(2) The chair shall ensure that the respondent and complainants are notified, in writing, of the action taken by the committee.</u> <u>(3) The chair may:</u> <u>(a) extend any time limitation, if the extension would facilitate a fair and complete inquiry; or</u> <u>(b) shorten any time limitation, if special circumstances require it.</u> <u>(4) (a) If an objection to the</u>	<p>achieve a majority vote directing further proceedings against the respondent, this constitutes a dismissal of the statement and of the complaint. The respondent and complainants shall be notified, in writing, of the action taken by the committee.</p> <p>(e) The chairman may extend any time limitation, if the extension would facilitate a fair and complete inquiry. The chairman may shorten any time limitation, if special circumstances necessitate this being done.</p>		

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	<p><u>participation of any person is raised in the respondent's response under JR6-4-304 Subsection (2)(e), the committee, by majority vote, shall:</u></p> <ul style="list-style-type: none"> (i) evaluate the person against whom the objection is raised to determine whether or not the person can fairly and impartially participate; and (ii) by majority vote, determine whether or not to allow that person to participate. <p>(b) If a majority of the committee does not agree to exclude the person, the person may participate.</p>		
	<p>JR 64-306. Disciplinary Hearing – General Requirements -- Two phases</p> <p>(1) The disciplinary hearing is open to the public and consists of two phases:</p> <p>(2) In Phase I, the committee</p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>***</p> <p>(b) The disciplinary hearing is open to the public and consists of two phases. Phase I is to determine whether or not the counts in the Statement of Alleged Violation have been proved.</p>	<p>None</p>

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<p><u>must determine whether or not the counts in the Statement of Alleged Violation have been proved by clear and convincing evidence.</u></p> <p><u>(2) In Phase II, the committee must determine what recommendation should be made to the Senate or House with respect to any count that has been proved.</u></p>	<p>***</p> <p>(c) Phase II of a disciplinary hearing is to determine what recommendation should be made to the Senate or House with respect to any count which has been proved.</p>		
<p><u>JR 64-307. Disciplinary Hearing Process – Phase 1, Adjudication Phase</u></p> <p><u>(1) The chair shall:</u></p> <p><u>(a) call the meeting to order;</u></p> <p><u>(b) describe the committee's authority to conduct the hearing;</u></p> <p><u>(c) inform the committee, the respondent, and the attendees of the purpose and scope of the hearing; and</u></p> <p><u>(d) proceed with the hearing.</u></p> <p><u>(2) Witnesses and evidence</u></p>	<p>JR-16.07. Disciplinary Hearing.</p> <p>***</p> <p>(5)(b) This phase shall be conducted as follows:</p> <ul style="list-style-type: none"> (i) The meeting shall be opened by the chair. The chair shall give a statement of the committee's authority to conduct the hearing and the purpose and scope of the hearing. (ii) Witnesses and evidence shall be received in the following order whenever possible: <ul style="list-style-type: none"> (A) witnesses and evidence offered by the special prosecutor; 	<p>None</p>	<p>The current rule places the burden of proof on the special prosecutor to prove "facts." The rule is silent on who has the burden of proof to prove a "count" and what the standard of proof is. Staff recommends that the burden of proving a count be on the special prosecutor.</p>

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<p><u>shall be received in the following order whenever possible:</u></p> <p>(a) <u>witnesses and evidence offered by the special prosecutor;</u></p> <p>(b) <u>witnesses and evidence offered by the respondent; and</u></p> <p>(c) <u>rebuttal witnesses.</u></p> <p>(3) All witnesses shall testify under oath.</p> <p>(4) Witnesses offered by the special prosecutor shall be:</p> <p>(a) examined first by the special prosecutor;</p> <p>(b) cross-examined by the respondent or the respondent's counsel;</p> <p>(c) examined by committee members and committee staff; and</p> <p>(d) redirect examination and recross examination, if permitted by the chair.</p>	<p>(B) witnesses and evidence offered by the respondent; and</p> <p>(C) rebuttal witnesses.</p> <p>(iii) All witnesses shall testify under oath. Witnesses offered by the special prosecutor at a hearing shall be examined first by the special prosecutor. The respondent or respondent's counsel may then cross-examine the witnesses. The committee members and committee staff may then question the witnesses. Redirect and recross examination may be permitted in the chairman's discretion. Witnesses offered by the respondent shall be examined first by the respondent or respondents' counsel, and then may be cross-examined by the special prosecutor. Committee members and committee staff may then question the witness. Redirect and recross examination may be permitted in the chairman's discretion.</p> <p>(iv) At a disciplinary hearing, the</p>		

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	<p><u>(5) Witnesses offered by the respondent shall be:</u></p> <p><u>(a) examined first by the respondent or respondent's counsel;</u></p> <p><u>(b) cross-examined by the special prosecutor;</u></p> <p><u>(c) examined by committee members and committee staff; and</u></p> <p><u>(d) redirect examination and recross examination if permitted by the chair.</u></p> <p><u>(6) At the disciplinary hearing, the burden of proof rests upon the special prosecutor, who must establish a violation of any facts by clear and convincing evidence.</u></p> <p><u>(7) (a) For a count to be proved, a majority of the committee must vote that it is proved by clear and convincing evidence.</u></p> <p><u>(b) The chair shall dismiss</u></p>	<p>burden of proof rests upon the special prosecutor to establish the facts clearly and convincingly by the evidence introduced.</p> <p>***</p> <p>(d) A count is not proved unless a majority of the committee so determine by vote. A count which is not proved shall be dismissed. If a majority of the committee does not vote that a count has been proved, a motion to reconsider that vote may only be made by a member of the committee who voted that the count was not proved.</p>	

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
	<p><u>each count that is not proved by majority committee vote.</u></p> <p>(c) If a majority of the committee does not vote that a count has been proved, a motion to reconsider that vote may only be made by a member of the committee who voted that the count was not proved.</p>	<p>JR 64-308. Disciplinary Hearing Process – Phase2. Penalty Phase – Remedies</p> <p>(1) The committee <u>may not</u> hear any further testimony during Phase II unless a majority of the committee votes to allow additional testimony.</p> <p>(2) In Phase II of the disciplinary hearing, the committee <u>may, for any count</u> that has been voted as proved, recommend one or more of the following actions:</p> <p style="color:red">(a) censure;</p>	<p>None</p> <p>***</p> <p>(5)(c) Phase II of a disciplinary hearing is to determine what recommendation should be made to the Senate or House with respect to any count which has been proved. The committee shall hear no further testimony during Phase II except by a majority vote of the committee.</p> <p>(8) (a) The committee may, as provided in Phase II of the disciplinary hearing, for any count that has been voted as proved, recommend one or more of the following actions:</p>

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<p><u>(b) expulsion;</u></p> <p><u>(c) denial or limitation of any right, power, or privilege of the respondent, if:</u></p> <p><u>(i) under the Utah Constitution, the Senate or House may impose that denial or limitation;</u> and</p> <p><u>(ii) the violation bears upon the exercise or holding of the right, power, or privilege; or</u></p> <p><u>(d) any other action that the committee determines appropriate.</u></p> <p><u>(3) If a majority of the committee does not vote in favor of the recommendation for action, a motion to reconsider may only be made by a member of the committee who voted against the recommendation.</u></p> <p><u>(4) The chair shall ensure that the committee's recommendation to the Senate</u></p>	<p>(i) censure;</p> <p>(ii) expulsion;</p> <p>(iii) denial or limitation of any right, power, or privilege of the respondent, if under the Utah Constitution the Senate or House may impose such denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or privilege; or</p> <p>(iv) any other action the committee determines appropriate.</p>	<p>(b) If a majority of the committee does not vote in favor of the recommendation for action, a motion to reconsider may only be made by a member of the committee who voted against the recommendation.</p> <p>(c) The committee's recommendation to the Senate or House shall be submitted in writing and shall contain a brief but complete statement of the evidence which supports their recommendations.</p>	

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<u>or House is:</u> (a) submitted in writing; and (b) contains a brief but complete statement of the evidence that supports the committee's recommendations.			Staff recommends that the language " <u>invite the respondent and his counsel into the committee room to hear the committee's decision</u> " be modified to read "ensure that the respondent is informed of the committee's decision."
JR 64-309 Announcement of Decision (1) At the conclusion of the committee's deliberations in the disciplinary hearing, when a decision has been reached, the chair shall invite the respondent and his counsel into the committee room to hear the committee's decision.	JR-16.07. Disciplinary Hearing. ****	(6) Announcement of Committee's Decision. At the conclusion of the committee's deliberations in the disciplinary hearing, when a decision has been reached, the respondent and his counsel shall be invited into the committee room to hear the committee's decision.	
JR 64-310. Records of Disciplinary Hearing (1) After the disciplinary hearing is completed, the staff of the committee shall keep a	JR-16.07. Disciplinary Hearing. ****	(7) At the completion of the disciplinary hearing, the staff of the committee shall keep a file containing	

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<u>file containing a comprehensive summary of the disciplinary hearing.</u>	a comprehensive summary of the disciplinary hearing.		
Chapter 5. Action by Senate or House on Ethics Committee Recommendation			
JR 6-5-101. Senate and House Action (JR-16.04(7), JR-16.07(9))	<p>JR-16.04 Rules of Procedure for the Senate and House Ethics Committees.</p> <p>(7) The Senate or House shall consider the recommendations of the committee and shall, by a majority vote of that house, either accept, dismiss, or alter these recommendations. If the committee's recommendations are for expulsion of a Senator or Representative, acceptance of this recommendation requires a two-thirds vote of all the members elected to the Senate or to the House.</p> <p>JR-16.07. Disciplinary Hearing.</p> <p>(9) The Senate or House shall consider the recommendations of the</p>	None	This rule governs Senate and House action under both scenarios: if the respondent waives the disciplinary hearing and the committee makes a recommendation after the preliminary hearing; and if the respondent does not waive the disciplinary hearing and the committee makes its recommendation after the disciplinary hearing.

Recodified/Revised Rule	Existing Rule	Comparable or Related Interim, House, or Senate Rule (if any)	Staff Comments
<u>or to the House.</u>	<p>committee and shall, by a majority vote of that house, either accept, dismiss, or alter these recommendations. If the committee's recommendations are for expulsion of a Senator or Representative, acceptance of this recommendation requires a two-thirds vote of all the members elected to the Senate or to the House.</p>		